claims in the same manner as the Office has renumbered its claims. However, as it was not certain that the examiner renumbered the dependency of the claims, the dependencies are being corrected by the present amendment.

The examiner has objected to the disclosure in that claim 25 depends from claim 31 while there is no claim 31 in the instant application.

Claim 25 has now been amended to depend from claim 24, thus obviating this objection.

Claims 24-26 have been rejected under 35 USC 112 as being indefinite. The examiner states that claim 25 is improperly dependent from claim 31 which does not exist. With respect to claim 26 the examiner states that it is not clear whether the transformed cell is also transformed by the first expression vector or the second expression vector.

As indicated above, claim 25 has now been amended to depend from claim 24. Claim 26 has been amended to make it clear that the transformed cell is also transformed by said second expression vector. It is believed that this amendment obviates the language which the examiner has found objectionable. Reconsideration and withdrawal of this rejection is therefore respectfully urged.

Claim 20 has been rejected under 35 USC 101 as claiming the same invention as that of claim 1 of prior U.S. patent no. 4,923,805. The examiner states that this is a double patenting rejection. This rejection is respectfully traversed.

Claim 20 is drawn to a cell while claim 1 of U.S. patent 4,923,805 is drawn to a method. Accordingly, it is not understood why the examiner considers these claims to be claiming the same invention. Clearly, it is possible to infringe a cell without infringing a method and vice versa. Reconsideration and withdrawal of this rejection is therefore respectfully urged.

To the extent that the examiner may have intended for this rejection to apply to claim 24 of the present application, it is pointed out that claim 24 requires that the alpha subunit be present in a first expression vector and the beta subunit in a second expression vector. This is a different embodiment from that of claim 1 of U.S. patent 4,923,805. Accordingly, same invention-type double patenting does not apply. Again, reconsideration and withdrawal of this rejection insofar as it may relate to claim 24 is also respectfully urged.

Claims 16, 18, 19 and 21-26 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. patent 4,923,805.

Attached hereto is a terminal disclaimer executed by Genzyme Corporation, which is the owner of the present application and also the owner by an assignment mailed June 18, 1991, of U.S. patent 4,923,805. The filing of this terminal disclaimer obviates the obviousness-type double patenting rejection. Reconsideration and withdrawal of this rejection is therefore respectfully urged.

Claims 18-23 and 25 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3, 4, and 11-13 of U.S. patent

no. 4,840,896. The examiner considers the claims to be not patentably distinct from each other because the instant application claims the same plasmid and expression vector being autonomously replicating in the same mouse cell under the control of the mouse metallothionein promoter as disclosed by U.S. patent no. 4,840,896. This rejection is respectfully traversed.

The cells of U.S. patent 4,840,896 produce the hormones hCG and LH while the claims of the present invention produce FSH. It is urged that these are independent and distinct inventions for the same reason that the examiner examining the application which issued as U.S. patent 4,923,805 effectively considered them to be independent and distinct inventions by failing to require a terminal disclaimer during the prosecution of that application. It would create an anomalous situation if a terminal disclaimer were required in the present application in view of the fact that no terminal disclaimer was required during the prosecution of the application that issued as U.S. patent 4,923,805. Accordingly, reconsideration and withdrawal of this obviousness-type double patenting rejection are respectfully urged.

The remaining references cited of record have been noted as has the examiner's implicit recognition that they are insufficiently pertinent to warrant their application against the claims.

It is submitted that all the claims now present in the case clearly define over the references of record. Reconsideration and allowance are therefore earnestly solicited.

Respectfully submitted,

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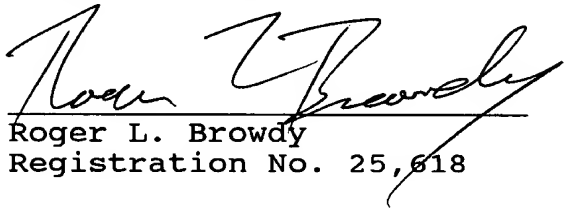
By 
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